

Instructions for Form 588

Nonresident Withholding Waiver Request

What's New

Beginning January 1, 2008, Domestic nonresidents may use the new Form 589, Nonresident Request for Reduced Withholding, to request the reduction in the standard seven percent withholding amount that is applicable to California source payments made to nonresidents.

General Information

A Purpose

Use Form 588, Nonresident Withholding Waiver Request, to request a waiver on withholding payments of California source income to nonresident vendors/payees.

Do not use Form 588 to request a waiver if you are a:

- **Foreign (non-U.S.) partner or member.** There are no provisions in the California Revenue and Taxation Code (R&TC) to waive withholding for foreign partners or members.
- **Seller of California real estate.** Sellers of California real estate should use Form 593-C, Real Estate Withholding Certificate.

Form 588 does not apply to payments for wages to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information, go to their Website at www.edd.ca.gov or contact EDD customer service at (888) 745-3886.

B Requirement

R&TC Section 18662 requires withholding of income or franchise tax on certain payments made to nonresidents for income received from California sources. The withholding rate is seven percent unless a waiver is granted by the Franchise Tax Board (FTB).

C Income Subject to Withholding

The items of income subject to withholding include, but are not limited to:

- Compensation for services performed in California by nonresidents (including payment of expenses). For more information, get FTB Pub. 1017, Nonresident Withholding Guidelines.
- Rent paid to nonresidents on commercial real or personal property located in California if the rent is paid in the course of the withholding agent's business.

- Royalties paid to nonresidents for the right to use natural resources located in California.
- Distributions of California source taxable income to nonresident beneficiaries from an estate or trust.
- Prizes and winnings received by nonresidents for contests in California.
- Distributions of California source taxable income to a domestic (nonforeign) nonresident S corporation shareholder, partner, or member. For more information, get FTB Pub. 1017.
- Allocations of California source income or gain to foreign (non-U.S.) nonresident partner or member. For more information, get FTB Pub. 1017. There are no provisions in the California R&TC to waive withholding for foreign (non-U.S.) S corporation shareholders, partners, or members.
- Other California source income paid to nonresidents.

Compensation for services includes payments for personal services rendered in California, commissions paid to salespersons or agents for orders received or sales made in California, fees for professional services rendered in California, and payments to entertainers, wrestlers, boxers, etc., for performances in California.

When compensation is paid for services performed both within and outside of California, the portion paid for services rendered in California and subject to withholding should be determined by an allocation. Refer to Form 587, Nonresident Withholding Allocation Worksheet.

Use Form 592, Quarterly Nonresident Withholding Statement, Form 592-A, Foreign Partner or Member Quarterly Withholding Remittance Statement, and Form 592-F, Foreign Partner or Member Annual Return, to report and remit withholding to the FTB.

D Exceptions to Withholding

Withholding is not required when:

- The payment is for goods.
- The payment is being made to a resident of California, an S corporation, a partnership, or an LLC that has a permanent place of business in California. Form 590, Withholding Exemption Certificate, can be used by vendors/payees to certify that they are residents of California or have

a permanent place of business in California. Withholding agents should keep the signed form containing this certification and provide it to the FTB upon request. Withholding agents are relieved of the withholding requirements if they rely in good faith on a signed certification (Form 590) that the vendor/payee is a resident of California or has a permanent place of business in California. This exception does not apply if the resident, S corporation, partnership, or LLC that has a permanent place of business in California is acting as an agent for the actual vendor/payee.

- The withholding agent's total payments of California source income to the vendor/payee are \$1,500 or less for the calendar year.
- The payments are for income from intangible personal property, such as interest and dividends, unless derived in a trade or business or the property has acquired a business situs in California.
- The payments are for services performed outside of California or for rents, royalties, and leases on property located outside of California.
- The payment is to a nonresident corporate director for director services, including attendance at board meetings.
- The vendor/payee is a tax-exempt organization under either California or federal law (provide a completed Form 590 to the withholding agent to certify).
- The vendor/payee receives a written authorization from the FTB waiving the withholding.
- The domestic (nonforeign) nonresident S corporation shareholder, partner, or member provides the S corporation, partnership, or LLC with a properly completed and signed Form 590-P, Nonresident Withholding Exemption Certificate for Previously Reported Income.
- The income of nonresident S corporation shareholders, partners, or members, including a bank or corporation, is derived from qualified investment securities of an investment partnership.

E When and Where to File

Submit your request for a waiver at least 10 days before making a payment to allow the FTB time to process your request.

Mail Form 588 to:

WITHHOLDING SERVICES AND
COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Or

Fax to: (916) 845-9512

F Withholding Waivers

The FTB issues a determination letter. A withholding agent must have received the determination letter authorizing a waiver of withholding before eliminating withholding on payments made to nonresidents. The withholding agent retains the waiver for a minimum of five years.

Withholding waivers issued by the FTB apply only for the limited purpose of determining the withholding obligation under R&TC Section 18662. They do not apply to the taxability of income.

A withholding waiver is effective for a maximum of two years from the date the waiver is granted. If you previously received a withholding waiver and wish to have it extended, submit a new request on Form 588 and attach a copy of the original authorization letter. The acceptance of evidence submitted with the application is not binding on the FTB for any purpose other than for issuing a withholding waiver.

G Where to get Publications, Forms, and Information

By Internet: You can download, view, and print California tax forms and publications from our Website at www.ftb.ca.gov.

By Phone: To have publications or forms mailed to you, or to get additional nonresident withholding information, contact the Withholding Services and Compliance at the address or automated number below:

WITHHOLDING SERVICES AND
COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Telephone: (888) 792-4900
(916) 845-4900 (not toll-free)

Fax: (916) 845-9512

H Where to get Publications, Forms, and Information Unrelated to Nonresident Withholding

By Automated Phone Service: Use this service to check the status of your refund, order California forms, obtain payment and balance due information, and hear recorded answers to general questions. This service is available 24 hours a day, 7 days a week, in English and Spanish.

From within the
United States. (800) 338-0505

From outside the
United States. (916) 845-6600
(not toll-free)

Follow the recorded instructions. Have paper and pencil handy to take notes.

By Mail: Allow two weeks to receive your order. If you live outside of California, allow three weeks to receive your order. Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

In Person: Many libraries have forms and schedules for you to photocopy (a nominal fee may apply). Employees at libraries cannot provide tax information or assistance.

Assistance for persons with disabilities

We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments call:

TTY/TDD: (800) 822-6268

Asistencia para personas discapacitadas

Nosotros estamos en conformidad con el Acta de Americanos Discapacitados. Personas con problemas auditivos o dificultad con el habla pueden llamar al TTY/TDD (800) 822-6268.

Specific Instructions

The withholding agent, S corporation, partnership, LLC, vendor/payee, estate, or trust may complete and sign this form.

Complete the entire form and attach the information supporting your request. Failure to include necessary information and documents may delay issuance or denial of the waiver.

Private Mail Box

Include the Private Mail Box (PMB) in the address field. Write the acronym "PMB" first, then the box number.

Example: 111 Main Street PMB 123.

Part I – Check the box indicating the type of payment for which a waiver is being requested.

Part II – Enter the name, address (including PMB, if applicable), and to whose attention the withholding certificate is to be mailed. Include a daytime telephone number, with area code, we can call if we need additional information.

Part III – Enter the information related to the withholding agent, S corporation, partnership, LLC, estate, or trust making the payments. Use a separate form or attach a list if there is more than one withholding agent.

Part IV – List the name and social security number, TIN, California corporation number, or FEIN of the nonresident vendor/payee.

Under Reason for Waiver Request, enter the letter code from Part V that corresponds to your reason for requesting a waiver.

Part V – This is a list of the most common reasons for requesting a waiver. If you choose Reason E, provide all of the required additional information.

If vendor/payee chooses Reason B, but does not have California tax returns on file for the two most recent tax years (as described in Reason A), then the resulting waiver will be effective for one year.

Part VI – Sign and date the request.